

ATTORNEY DOCKET NO.: 047765301

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT
TECHNOCENTER 1600/2900

In re Application of: Roger READ et al.)

U.S. Application No.: 09/673,305)

Group Art Unit: 1625

Filing Date: March 19, 2001)

Examiner: B. Robinson

For: PRODUCTION OF FURANONES)

Commissioner for Patents
ATTN: Director, Technology Center 1600
Washington, DC 20231

Sir:

PETITION TO RESET A PERIOD FOR REPLY
DUE TO LATE RECEIPT OF AN OFFICE ACTION

Applicants respectfully petition to reset the period for reply to the Office Action dated December 4, 2001 in the above-identified application. M.P.E.P. §710.06 sets forth that "[i]n the event that correspondence from the Office is received late (A) due to delays in the U.S. Postal Service...applicants may petition to reset the period for reply..."

The Office Action dated December 4, 2001 set a shortened statutory period for reply which expires one month from December 4, 2001. However, as evidenced by the enclosed copy of the PTO-90C Form, the Mailroom of Applicants' representatives received and date-stamped the Office Action on January 23, 2002. Every piece of mail received by our offices is opened and date-stamped on the day that it is received. Thus, the date of receipt of the Office Action at the correspondence address is January 23, 2002. Hence, the entire reply period of one month had elapsed on the date of receipt.

Also, as indicated in the attached USPTO general correspondence dated January 16, 2002, the Office is aware that outgoing mail from the USPTO may have been delayed (letter enclosed). It is our understanding that the postal service delay was likely caused by the routing out of the area of mail to be delivered to various federal agencies for anti-anthrax irradiation treatment, in which some non-federal mail was unintentionally mixed in. It is notable that our

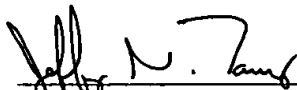
previous address, 1800 M Street, N.W., Washington, D.C. 20036 is the same, but for the suite and floor number, to that of a branch of the U.S. Department of Agriculture. Trace amounts of anthrax were found in the mailroom of the USDA office in our building in October. Thus, the irradiation of mail to this address is understandable.

It is respectfully submitted that this Petition is timely filed within two weeks of the date of receipt of the Office Action at the correspondence address and a substantial portion of the set reply period had elapsed on the date of receipt. Accordingly, Applicants respectfully petition to restart the previously-set one-month period for reply to the Office Action to run from the date of receipt of the Office Action at the correspondence address.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: 
Jeffrey N. Townes
Registration No. 47,142

Dated: February 4, 2002

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/673,305	03/19/2001	Roger Read	047763-5017	5146

9629 7590 12/04/2001
MORGAN, LEWIS & BOCKIUS
1800 M STREET NW
WASHINGTON, DC 20036-5869

EXAMINER

ROBINSON, BINTA M

ART UNIT PAPER NUMBER

1625

DATE MAILED: 12/04/2001



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Please find below and/or attached an Office communication concerning this application or proceeding.

Docketed 1-23-02 Attorney ECW/RGA/INT
Case 47763-5017
Due Date 1-4-02
Action Election/Restriction
By SOW Chk PSB

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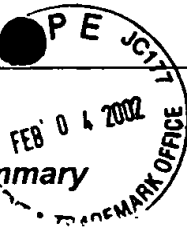
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Office Action Summary



Application No.

09/673,305

Applicant(s)

READ ET AL.

Examiner

Binta M. Robinson

Art Unit

1625

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-26 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-17, 22, 23-26, drawn to compounds of formula Ia and VI, compositions, and method of treating.

Group II, claim(s) 18-20, drawn to a polymer.

Group III, claim(s) 24, drawn to a surface coating composition.

The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Groups I, II, and III are each different types of product.

A telephone call was made to Beth Weimer on 11/27/01 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binta M. Robinson whose telephone number is (703) 306-5437. The examiner can normally be reached on M-F (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alan Rotman can be reached on (703)308-4698. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-7922 for regular communications and (703)308-7922 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0193.

Binta Robinson



December 3, 2001



ALAN L. ROTMAN
PRIMARY EXAMINER